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7	Attorneys for Complainant
8	BEFORE THE BOARD OF REGISTERED NURSING
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
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11	In the Matter of the Accusation Against: Case No. 2012 - 254
12	STACI LIN TORRES, a.k.a. STACI LIN
13	AVERY 708 E. First Street ACCUSATION
14	Madison, IN 47250 Registered Nurse License No. 342131
15	Respondent.
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17	Complement alleges
18	Complainant alleges:
19	<u>PARTIES</u>
20	1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21	official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22	Consumer Affairs.
23	2. On or about April 30, 1982, the Board of Registered Nursing issued Registered Nurse
	License Number 342131, to Staci Lin Torres, also known as Staci Lin Avery (Respondent). The
24	Registered Nurse License was in full force and effect at all times relevant to the charges brought
25	in this Accusation and will expire on September 30, 2013, unless renewed.
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JURISDICTION

- 3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
- 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.
- 6. Section 118, subdivision (b), of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY AND REGULATORY PROVISIONS

7. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- "(a) Unprofessional conduct, which includes, but is not limited to, the following:
- "(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional

licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

. . .

- "(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."
- 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
- 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
 - 10. California Code of Regulations, Title 16, section 1444, states:

"A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare."

11. California Health and Safety Code section 11364, subdivision (a), states:

"It is unlawful to possess an opium pipe or any device, contrivance, instrument, or paraphernalia used for unlawfully injecting or smoking (1) a controlled substance specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (2) of subdivision (d) of Section 11055, or (2) a controlled substance which is a narcotic drug classified in Schedule III, IV, or V."

COST RECOVERY

12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Conviction) (Bus. & Prof. Code § 2761, subds. (a), (f))

Code section 2761, subdivisions (a) and (f), as defined by California Code of Regulations, title 16, section 1444, in that Respondent was convicted of a crime that is substantially related to the qualifications, functions or duties of a registered nurse. The circumstances are that on or about November 16, 2006, in a criminal matter entitled *The People of the State of California v. Staci L. Torres*, Case No. 6HY02516, in the Los Angeles County Superior Court, Respondent was convicted by plea of nolo contendre of violating Health and Safety Code section 11364, subdivision (a) (unlawful possession of an opium pipe or any device, contrivance, instrument, or paraphernalia used for unlawfully injecting or smoking a controlled substance), a misdemeanor. Respondent was sentenced to serve 14 days in Los Angeles County Jail and ordered to pay various fees and fines.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Out of State Discipline) (Bus. & Prof. Code § 2761, subd. (a)(4))

- 14. Respondent has subjected her registered nurse license to disciplinary action under Code section 2761, subdivision (a)(4), in that on or about May 22, 2008, in a disciplinary action before the Indiana State Board of Nursing (Indiana Board), the Indiana Board entered a Decision on License Application (Decision), issuing Respondent a license as a registered nurse and placing her on indefinite probation. The terms of Respondent's probation required Respondent to:
- (1) keep the Indiana Board informed of her residential address and telephone number at all times;
- (2) keep the Indiana Board informed of her nursing employer's or employers' name, address, and telephone number at all times; (3) contact the Indiana State Nurses Assistance Program (ISNAP)

and enter into a recovery monitoring agreement; and (4) not violate any laws regulating the practice of nursing. The Decision allowed Respondent to apply to withdraw the probation of her license after completing her recovery monitoring agreement with ISNAP.

15. The underlying conduct supporting the Indiana Board's disciplinary action is that in or about April 2008, Respondent submitted an application for licensure as a registered nurse to the Indiana Board. In her application, Respondent informed the Indiana Board that she had been treated for alcohol addiction in the past. The Indiana Board concluded that Respondent had demonstrated that she could practice nursing in Indiana with a probationary license.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

- 1. Revoking or suspending Registered Nurse License Number 342131, issued to Staci Lin Torres, also known as Staci Lin Avery;
- 2. Ordering Staci Lin Torres, also known as Staci Lin Avery to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
 - 3. Taking such other and further action as deemed necessary and proper.

DATED: October 24, 2011 Louise A. Sailer
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs

Department of Consumer Affairs State of California Complainant

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